

## **Discrimination Complaints**

All CDC employees are expected to adhere to the EEO Policy Directive and attend required training on the EEO Policy Directive. Employees are strongly encouraged to report any violations of the EEO Policy Directive so CDC may take appropriate corrective action to remedy the situation. Employees who believe they have witnessed or been the victim of conduct that violates the EEO Policy Directive should report the incident immediately. It should be understood that failure to utilize CDC's internal procedures to report violations of the EEO Policy Directive may defeat an individual's subsequent claims.

The Department of Corrections accepts complaints of discrimination, sexual harassment or retaliation from CDC employees and applicants for employment. Completing a Discrimination Complaint Guide (CDC Form 693) will assist you in determining if your complaint is based on EEO. You may submit the completed form to your local EEO Coordinator or mail it directly to the Office of Civil Rights (OCR) at the following address:

Department of Corrections & Rehabilitation  
Office of Civil Rights – Room 101 N  
P.O. Box 942883  
Sacramento, CA 94283-0001

If after review it is determined that your complaint does not fit within the standards for an EEO issue, you may wish to consider addressing your concerns via your supervisory chain of command or your collective bargaining grievance process. If you need additional assistance in determining whether your complaint is EEO related, you may discuss your complaint with your local EEO Coordinator or contact the OCR directly at 1-800-272-1408.

You have the absolute right to freedom from retaliation for filing an EEO complaint. If you feel you have been retaliated against for filing an EEO complaint, you should contact your EEO Coordinator or OCR immediately.

## Employee Rights

All employees are assured of the following rights with regard to complaints of discrimination. The following is a listing of those rights with detailed explanation of each:

1. The right to file a discrimination complaint, freedom from influence to refrain from filing a complaint, and freedom from reprisal for filing a complaint.
2. The right to a reasonable amount of work time to make an informal presentation of a complaint to an EEO Counselor/Supervisor. Consistent with immediate needs, this right shall not be abridged or its execution delayed by any supervisor.
3. The right to be assisted by a representative of their own choosing at all stages of the process.
4. The right to keep their complaint confidential until:
  - a. Such time as they give the EEO Counselor permission to do otherwise in order to bring the complaint to the appropriate authority for remedy;
  - b. Such time as a formal written complaint is filed with the Discrimination Investigation Unit;
  - c. Such time as appropriate action must be taken to resolve the situation; or
  - d. In cases of sexual harassment, the complainant should be aware that complete confidentiality cannot be assured because of the legal obligation to take immediate and corrective action.
5. The right to a full, impartial, and prompt investigation by a trained departmental Discrimination Complaint Investigator.
6. The right to appeal the Department's decision to the SPB.
7. The right to file complaints concurrently with the Equal Employment Opportunity Commission (EEOC), the DFEH; or other appropriate State and federal compliance agencies; or to file a civil action in the appropriate court.
8. The right to appeal to the SPB if the employee has not received a response from the Department within 180 days from the date they filed their complaint.

## Basis of Discrimination & Protected Group Categories

| <i><b>BASIS</b></i>       | <i><b>DEFINITION</b></i>   | <i><b>EXAMPLES</b></i>  |
|---------------------------|--|---|
| <b>Race</b>               | An individual belonging to one of the accepted Anthropological racial groups or the perception based usually on physical characteristics that a person is a member of a racial group.  | Black, White, Hispanic, Asian, American Indian, Filipino, or Pacific Islander.  |
| <b>Ancestry</b>           | National or cultural origin of a line of descent.  | Hispanic, African-American, Polish-American, Native American (where your parents are from).                                     |
| <b>National Origin</b>    | National birth site (other than the U.S.). Citizenship is not a factor.  | Mexican, Cuban, Japanese, Vietnamese, Chinese, African, etc. Many complaints are associated with language or a person's accent. |
| <b>Color</b>              | Color of skin, including shade of skin within a racial group.  | Black, white, light brown, dark brown, etc.   |
| <b>Sex</b>                | Gender. Includes sexual harassment, pregnancy.   | Male, Female.   |
| <b>Sexual Orientation</b> | The direction or one's sexual attention and/or emotional attractions involving others.   | Heterosexual, Homosexual, or Bisexual. This also includes the perception of being part of one of these groups.                  |
| <b>Religion</b>           | To follow spiritual belief. Does not have to be an organized group, traditional denomination or world religion. (Can be directed at creed itself, or due to the effect on the job of a person's practices associated with their religious belief.) | Latter Day Saints, Jewish, Catholic observed holy days, Ramadan, Rosh Hashanah.   |
| <b>Disability</b>         | Physical or mental impairment, permanent or temporary, or perceived.   | Pregnancy, alcoholic, arthritic, paraplegic, epileptic, diabetic.   |
| <b>Marital Status</b>     | Legal status of adult in a relationship. Organization must show on an individual basis that there is a problem beyond the fact that a person is, or two employees are, married or not married  | Married, single, divorced, widowed, separated (polygamy/bigamy not included).   |
| <b>Age</b>                | Persons 40 years old and over.   | 63-year old applicant seeking job. Many issues are based on denial of promotion or training assignments.                        |
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| <b>Medical Condition</b>   | Physical condition, permanent, temporary or perceived.   | Cancer, HIV positive, AIDS, genetic characteristics (scientifically or medically identifiable gene or chromosome or inherited characteristic that statistically lead to increased development of a disease or disorder). |
| <b>Refusal of Leave for an Employee's Serious Health Condition</b> | An employer's refusal to accommodate an employee who requests leave of absence due to his/her own serious health condition.  | An employee becomes disabled or acquires a medical condition that is defined as a serious health condition.  |
| <b>Refusal of Family Care Leave</b>                                | An employer's refusal to accommodate an employee who requests leave of absence due to a family member's serious health condition.  | An employee requests six weeks off to take care of his/her mother who has cancer.  |
| <b>Denial of Pregnancy Disability Leave</b>                        | An employer's refusal to allow an employee to take leave due to disability or medical condition related to pregnancy.  | An employee returns to work after her pregnancy and becomes disabled due to post-partum depression related to her pregnancy, and requests additional time off.   |
| <b>Retaliation (Reprisal)</b>                                      | Negative actions or undesirable changes in person's employment situation due to the person having filed an EEO complaint or complained about inappropriate/discriminatory activity within the work place. Involvement in process results in deliberate actions causing harm. | Employee files a discrimination complaint against supervisor and gets new, less desirable job assignment. Employee gets unsatisfactory performance ratings only after filing an EEO complaint.                           |
| <b>Vietnam Veteran</b>   | Veteran having served on active duty between 8/5/64 and 5/7/75 and was discharged with an honorable or service connected disability.   | A Vietnam veteran being denied a promotion, etc. because he served in the Vietnam war.   |
| <b>Political Affiliation or Opinion</b>                            | Partisan political affiliation associated with political but not specifically partisan causes.   | Democratic, republican, socialist; Central American Policy, anti-abortion, nuclear freeze, pro-life.   |

### **Informal Discrimination Complaint Process**

Those who believe they have been discriminated against may seek redress by first discussing the matter informally at the work location with an Equal Employment Opportunity (EEO) Counselor or any CDC Supervisor. **Note: The employee is not required to file the complaint with their direct supervisor.** The Supervisor/EEO Counselor shall conduct an inquiry (interview) with the employee. If the complaint is of a supervisory nature, the supervisor will notify his/her immediate supervisor and determine the most appropriate administrative level and method for resolving the issue. If the complaint is of an EEO nature, the supervisor will contact the EEO Coordinator before attempting resolution and speaking to witnesses/respondent. The supervisor will take direction on how to proceed with the EEO issue from the EEO Coordinator. If the complainant (employee) is not satisfied with the results of the informal discrimination complaint process and chooses to formalize the complaint, the supervisor shall advise the complainant of his/her rights and procedures for filing a formal discrimination complaint with the Office of Civil Rights (OCR).

The informal process is an option available to **all** employees. An employee is not required to first seek the assistance of a supervisor or EEO Counselor, but is encouraged to use this process. The EEO Counselor acts as an intermediary through which employees can raise questions, discuss problems, receive answers, and resolve issues of discrimination on an informal basis. The EEO Counselor serves as a bridge between employees and management to help resolve discrimination complaints by discussing problems with employees and supervisors.

The EEO Counselor will inform the complainant of the outcome of the complaint, any agreements, appeal rights, and any future monitoring. All cases must be closed and documented and the affected parties notified. An informal complaint must be handled within twenty (20) working days, unless an extension is granted by the complainant.

### **Formal Discrimination Complaint Process**

Any CDC employee may bypass the informal process and file a formal complaint directly with the Office of Civil Rights (OCR). The formal process is very similar to the informal process. The formal complaint process begins with an intake (interview), which is conducted by OCR staff. Once a determination is made as to whether the issue is an EEO issue, an investigator is assigned and a letter is sent to the complainant. If the complaint is not accepted, a letter stating the reasons is sent to the complainant. The complainant may file an appeal with the State Personnel Board within thirty (30) days of receiving this letter.

Employees also have three external options available through outside compliance agencies in which resolution of discrimination complaints can be sought. An individual employee may contact U.S. Equal Employment Opportunity Commission (EEOC), the California Department of Fair Employment and Housing (DFEH) and the State Personnel Board (SPB) to file a discrimination complaint. The EEOC can be reached at (415) 356-5100, the DFEH can be reached at (916) 445-5523 and SPB can be reached at (916) 653-0799.

Employees are not required to exhaust the administrative procedure to file a formal discrimination complaint prior to exercising their right to file with an outside compliance agency. Complaints filed with DFEH and SPB must be filed within 365 days of the date of the occurrence of the discriminatory action. DFEH and SPB allow for an additional 90 days to be added to the 1 year filing period after the expiration date if the complainant just became aware of the discriminatory issue. Complaints filed with EEOC must be within 300 days of the date of the discriminatory action.

# CALIFORNIA DEPARTMENT OF CORRECTIONS DISCRIMINATION COMPLAINT PROCESS

